

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 12, Page 1, Section A, Line 4, by inserting
2 after all of said section and line the following:

3
4 "34.378. 1. The state shall not enter into a contingency fee contract with a private attorney
5 unless the attorney general makes a written determination prior to entering into such a contract that
6 contingency fee representation is both cost effective and in the public interest. Any written
7 determination shall include specific findings for each of the following factors:

8 (1) Whether there exists sufficient and appropriate legal and financial resources within the
9 attorney general's office to handle the matter;

10 (2) The time and labor required; the novelty, complexity, and difficulty of the questions
11 involved; and the skill requisite to perform the attorney services properly;

12 (3) The geographic area where the attorney services are to be provided; and

13 (4) The amount of experience desired for the particular kind of attorney services to be
14 provided and the nature of the private attorney's experience with similar issues or cases.

15 2. If the attorney general makes the determination described in subsection 1 of this section,
16 the attorney general shall request written proposals from private attorneys to represent the state,
17 unless the attorney general determines that requesting proposals is not feasible under the
18 circumstances and sets forth the basis for this determination in writing. If a request for proposals is
19 issued, the attorney general shall choose the lowest and best bid or request the office of
20 administration establish an independent panel to evaluate the proposals and choose the lowest and
21 best bid.

22 3. The state shall not enter into a contingency fee contract that provides for the private
23 attorney to receive an aggregate contingency fee in excess of:

24 (1) Twenty-five percent of any recovery up to ten million dollars; plus

25 (2) Twenty percent of any portion of such recovery between ten million one dollars and
26 fifteen million dollars; plus

27 (3) Fifteen percent of any portion of such recovery between fifteen million one dollars and
28 twenty million dollars; plus

29 (4) Ten percent of any portion of such recovery between twenty million one dollars and
30 twenty-five million dollars; plus

31 (5) Five percent of any portion of such recovery in excess of twenty-five million dollars.

32 4. The state shall not enter into a contract for contingency fee attorney services unless the
33 following requirements are met throughout the contract period and any extensions to the contract:

34 (1) The government attorneys shall retain complete control over the course and conduct of
35 the case;

36 (2) A government attorney with supervisory authority shall oversee the litigation;

37 (3) The government attorneys shall retain veto power over any decisions made by outside

Action Taken _____ Date _____

1 counsel;

2 (4) A government attorney with supervisory authority for the case shall attend all settlement
3 conferences; and

4 (5) Decisions regarding settlement of the case shall be reserved exclusively to the discretion
5 of the attorney general.

6 [4.] 5. The attorney general shall develop a standard addendum to every contract for
7 contingent fee attorney services that shall be used in all cases, describing in detail what is expected
8 of both the contracted private attorney and the state, including, without limitation, the requirements
9 listed in subsection 3 of this section.

10 [5.] 6. Copies of any executed contingency fee contract and the attorney general's written
11 determination to enter into a contingency fee contract with the private attorney shall be posted on the
12 attorney general's website for public inspection within five business days after the date the contract is
13 executed and shall remain posted on the website for the duration of the contingency fee contract,
14 including any extensions or amendments to the contract. Any payment of contingency fees shall be
15 posted on the attorney general's website within fifteen days after the payment of such contingency
16 fees to the private attorney and shall remain posted on the website for at least three hundred
17 sixty-five days.

18 [6.] 7. Any private attorney under contract to provide services to the state on a contingency
19 fee basis shall, from the inception of the contract until at least four years after the contract expires or
20 is terminated, maintain detailed current records, including documentation of all expenses,
21 disbursements, charges, credits, underlying receipts and invoices, and other financial transactions
22 that concern the provision of such attorney services. The private attorney shall maintain detailed
23 contemporaneous time records for the attorneys and paralegals working on the matter in increments
24 of no greater than one-tenth of an hour and shall promptly provide these records to the attorney
25 general, upon request. Any request under chapter 610 for inspection and copying of such records
26 shall be served upon and responded to by the attorney general's office.

27 [7.] 8. By February first of each year, the attorney general shall submit a report to the
28 president pro tem of the senate and the speaker of the house of representatives describing the use of
29 contingency fee contracts with private attorneys in the preceding calendar year. At a minimum, the
30 report shall:

31 (1) Identify all new contingency fee contracts entered into during the year and all previously
32 executed contingency fee contracts that remain current during any part of the year, and for each
33 contract describe:

34 (a) The name of the private attorney with whom the department has contracted, including the
35 name of the attorney's law firm;

36 (b) The nature and status of the legal matter;

37 (c) The name of the parties to the legal matter;

38 (d) The amount of any recovery; and

39 (e) The amount of any contingency fee paid;

40 (2) Include copies of any written determinations made under subsections 1 and 2 of this
41 section."; and

42
43 Further amend said bill by amending the title, enacting clause, and intersectional references
44 accordingly.